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FILED

2019 JAN 15 PM 5:00

U.S. MAGISTRATE JUDGE

BY _____

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BARRY ALLEN GABELMAN,

Defendant.

Case No. 2:20-mj-16-BNW

**Criminal Complaint
(Under Seal)**

Count One

Coercion and Enticement, in violation of 18
U.S.C. § 2422(b).

Count Two

Transfer of Obscene Material to Minor, in
violation of 18 U.S.C. § 1470.

BEFORE the United States Magistrate Judge, Las Vegas, Nevada, the undersigned
Complainant, being first duly sworn, deposes and states:

COUNT ONE
Coercion and Enticement

Beginning on or about October 31, 2019, and continuing to on or about December 6, 2019,
in the State and Federal District of Nevada,

BARRY ALLEN GABELMAN,

defendant herein, while using a facility or means of interstate or foreign commerce, did knowingly,
and attempted to, persuade, induce, entice, or coerce, Victim, who had not attained the age of 18

1 years, to engage in prostitution or any sexual activity for which any person could be charged with
 2 a criminal offense, to wit: *lewdness with a child*, in violation of Nevada Revised Statutes, Section
 3 201.230(2), *sexual assault*, in violation of Nevada Revised Statutes, Section 200.366(1)(b), and
 4 *sexual exploitation of children*, in violation of Title 18, United States Code, Section 2251(a), all in
 5 violation of Title 18, United States Code, Section 2422(b).

6 **COUNT TWO**
 7 **Transfer of Obscene Material to Minor**

8 Beginning on or about October 31, 2019, and continuing to on or about December 6, 2019,
 9 in the State and Federal District of Nevada,

10 **BARRY ALLEN GABELMAN,**
 11 defendant herein, while using the mail and any facility and means of interstate and foreign
 12 commerce, did knowingly, and attempted to, transfer obscene matter to Victim, who had not
 13 attained the age of 16 years, knowing that Victim had not attained the age of 16 years, all in
 14 violation of Title 18, United States Code, Sections 1470.

15 **PROBABLE CAUSE AFFIDAVIT**

16 Complainant, Skyler Penrod, as a Special Agent with the Federal Bureau of
 17 Investigation, states the following as and for probable cause:

18 1. I am currently assigned as a Special Agent with the Federal Bureau of
 19 Investigation (FBI) in the Las Vegas Division and assigned to investigate Internet Crimes
 20 Against Children (ICAC). I have approximately eight years of experience as a law enforcement
 21 officer and have been a Special Agent with the FBI since January of 2019. I have received
 22 training in the field of child pornography, internet crimes against children, and interview and
 23 interrogation. I am a member of the FBI's Child Exploitation Task Force (CETF).

24 2. This Affidavit is made in support of a complaint charging BARRY ALLEN
 GABELMAN with a violation of 18 U.S.C. § § 2422(b), which makes it illegal to coerce and

entice a victim who had not attained the age of 18 years to engage in prostitution or any illegal sexual activity, or attempt to do so, and a violation of 18 U.S.C. § § 1470, which makes it illegal for a person to transfer or attempt to transfer obscene matter to a victim who had not attained the age of 16 years with knowledge they had not attained 16 years of age. The statements contained in this affidavit are based on an FBI investigation for which I have been personally involved, and also includes information obtained from other law enforcement officials involved in the investigation. I have not included each and every fact known to me, but rather have included information establishing probable cause. All times are approximate.

FACTS ESTABLISHING PROBABLE CAUSE

3. On October 31, 2019, an undercover (UC) FBI Agent with an undercover social media account was contacted via the social media communication application "SKOUT" by a person named "BG". The FBI UC advertised in his SKOUT profile that he was an "active dad," had kids, and was looking for like-minded "freaks" in Las Vegas. The FBI UC was named "Cam". BG and the FBI UC then began exchanging messages with each other on October 31, 2019.

4. Based on his training and experience, the FBI UC knows that persons who are interested in pedophilia and sex with children often use the term "active dad" to signify to other enthusiasts that they are "actively" engaged in sex with minors to include their biological children, step children, or other children they have access to. This is also consistent with your affiant's training and experience.

5. BG described himself to the FBI UC as a male who was interested in women. BG initiated the contact between the FBI UC by sending a message that stated "Hey. What's up??" BG asked the FBI UC "what are you looking for?? What are you into??" and stated that he was "mainly into just sucking and fucking each other."

1 6. Based on your affiant's training and experience, it is common for persons to
2 describe themselves as heterosexual in social media profiles despite an actual interest in sexual
3 activities that are other than heterosexual.

4 7. BG requested pictures of the FBI UC's "cock" whereupon the FBI UC explained
5 to BG that he (the FBI UC) was not interested in sex acts with BG but did host and attend
6 parties wherein a mix of adults and "young" people attend and participate in sex acts.

7 8. BG indicated an interest in attending the parties the FBI UC described but stated
8 he did not want to pay for any sexual acts. The FBI UC stated that, based on BG's unwillingness
9 to pay for sex, the "young ones" at the party were the only persons that were available for sexual
10 activity with BG and that BG would not have access to adults. The FBI UC stated "so basically
11 that leaves the young ones." The FBI UC repeated that BG would only have access to young
12 persons and "...they are really yung." The FBI UC also stated "And I don't want anybody to get
13 in waters deeper than they like."

14 9. BG responded "...what you are referring to sounds like a Chick that hasn't even
15 Hit Puberty yet, right??" The FBI UC stated "Would you be into that or open minded to it?" To
16 which BG replied "sure. Why not. You said that they like to get Fucked right??"

17 10. As the text conversation continued on November 1, 2019, BG expressed concern
18 that he believed he may be talking with a law enforcement officer. The FBI UC stated that he
19 (the FBI UC) had pictures of his step-daughter that would prove that he was not in law
20 enforcement. BG stated "Any pics of these Younger ones naked at all?? Kinda would like to see
21 what might be available for me to fuck."

22 11. The FBI UC stated that he would send pictures of his young step-daughter and
23 then stopped all communication for approximately five hours. BG re-initiated contact and
24 requested the pictures again. The FBI UC sent an image to BG depicting the FBI UC's step-

1 daughter (it should be noted that the picture sent by the FBI UC did not include actual children
2 and did not depict nudity).

3 12. The FBI UC and BG continued to talk about the FBI UC's underage step-
4 daughter. BG asked for additional pictures and the FBI UC requested that the conversation
5 continue to a more secure application called "WhatsApp".

6 13. Your Affiant notes that in order to communicate via the WhatsApp application,
7 BG and the FBI UC were required to exchange cell phone numbers. The FBI UC provided a
8 telephone number on November 1, 2019, and BG initiated contact via WhatsApp on November
9 2, 2019, at which time BG replied to the FBI UC by providing his a telephone number of 1-702-
10 890-0876.

11 14. Using various law enforcement databases, the FBI examined the records
12 associated with the telephone number 1-702-890-0876 and discovered that a man with the name
13 "Barry Gabelman" was the subscriber. In addition to the matching initials of BG and Barry
14 Gabelman, the FBI obtained Barry Gabelman's driver's license and noted that his license picture
15 was consistent with the social media profile pictures that BG posted on his SKOUT account.

16 15. BG initiated communication on WhatsApp on November 2, 2019, by sending a
17 message to the FBI UC that read "Hey. What's up?? This is the guy from Skout."

18 16. On November 2, 2019, BG asked the FBI UC for pictures of other women and the
19 FBI UC stated that only the younger persons would be available. The FBI UC identified his
20 step-daughter as "Ellie". BG then asked "Any more pics of Ellie?? Like of Her Pussy, and Tits, if
21 she has any??"

22 17. The FBI UC stated that his step-daughter Ellie was the only person available for
23 sex with BG. BG expressed interest in receiving pictures of Ellie naked.
24

1 18. BG and the FBI UC continued to discuss Ellie. BG discussed the pain he
2 presumed a girl of Ellie's size would endure during her first sexual experience. BG stated "...I
3 could probably get it in her. As long as I do it slowly so that I don't rip her pussy up too bad."

4 19. BG began asking the FBI UC to prove that he was not a member of law
5 enforcement. The FBI UC sent another picture depicting his step-daughter (it should be noted
6 that the picture sent by the FBI UC did not include an actual child and did not depict nudity).
7 Upon receiving the picture of the FBI UC's step-daughter, BG stated "I'll definitely finger her
8 pussy, and eat it too. Then I'll try to Fuck her after that."

9 20. BG and the FBI UC continued to discuss potential locations for BG to have sex
10 with the FBI UC's step-daughter. The FBI UC told BG that "She's 11 but she basically acts like
11 she's 23." BG acknowledged that he knew Ellie to be 11 years old.

12 21. On November 3, 2019, BG continued to express concern that the FBI UC could be
13 a law enforcement officer. The FBI UC stated "sounds like you are getting cold feet. Which is
14 totally fine." BG responded, "I'm not getting cold feet at all."

15 22. BG continued to ask for naked pictures of the FBI UC's step-daughter and stated
16 that he would be more comfortable if he could attend the FBI UC's adult sex parties. The FBI
17 UC confirmed that BG would not be granted access to the parties and would only ever be
18 allowed to have sex with Ellie. The FBI UC then stated "Let's just move on man...." in an
19 attempt to give BG the opportunity to discontinue discussing having sex with Ellie. However,
20 BG continued to show interest in meeting Ellie for sex. BG and the FBI UC continued to talk
21 and BG asked multiple times for "Pussy Pics" of Ellie. He continued to ask multiple times
22 through November 6, 2019.

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1 23. On November 6, 2019, the FBI UC suggested that if BG wanted to have sex with
2 Ellie, he should text her directly. BG agreed and began inquiring for Ellie's telephone number.
3 BG continued to ask for Ellie's number over the span of three days.

4 24. On November 9, 2019, BG contacted Ellie directly. The same FBI UC then used a
5 different phone number to portray Ellie and began exchanging messages with BG. As the FBI
6 UC portrayed Ellie, he and BG continued to exchange messages over WhatsApp and BG's
7 telephone number remained the same.

8 25. On the morning of November 9, 2019, The FBI UC began communicating with
9 BG as Ellie and initially discussed only Ellie's clothing style and preferred movies. BG
10 introduced the first reference to sex by stating "I'm a "snack" because I've got something
11 between my legs that Women absolutely love.....I can show you what I have, if you'd like to see
12 it??" The FBI UC responded "you don't have to if you don't want." BG replied "Nah. It's ok.
13 I'd like you to see it." Approximately one hour after BG began exchanging messages with the
14 FBI UC portraying Ellie, BG sent a picture of a nude penis. BG represented the penis was his.

15 26. As BG continued to exchange messages with who he believed was Ellie, BG
16 steered the conversation toward sexual topics and told the FBI UC "Well, if you'd like to have
17 sex with me, then I wouldn't mind doing it with you..." and "Can I see some pics of in between
18 your legs."

19 27. The FBI UC replied to BG's requests for pictures by stating that she was
20 embarrassed to take a picture and that she didn't want to show her vagina because "I'm too
21 small." BG replied by stating "I just want to see it because if I have sex with you, I plan on using
22 my mouth on it, and I'll be able to tell by looking at it if my big dick will be able to fit in it or
23 not."
24

1 28. BG continued to direct his conversation with Ellie in a sexual nature and he and
2 the FBI UC discussed oral sex, vaginal intercourse, and his penis. BG told the FBI UC that he
3 would teach Ellie how to perform oral sex on BG's penis. BG continued to ask for a picture of
4 the FBI UC's nude vagina multiple times.

5 29. BG and the FBI UC discussed sex with a condom and BG stated "I'll wear a
6 condom. I don't like wearing them, but guess I will have to for you."

7 30. As the texts between BG and the FBI UC portraying Ellie as well as Ellie's step-
8 father continued, BG repeatedly asked for pictures of Ellie's vagina. BG stated that he required a
9 picture of her vagina before he would consider meeting her for sex because that would be the
10 only way for Ellie and her step-father to prove that they were not law enforcement. While
11 portraying Ellie's step-father, the FBI UC told BG multiple times that he did not want pictures of
12 Ellie's vagina transmitted over the internet. The FBI UC stated on multiple occasions that they
13 should discontinue their plan and stop communicating. Each time the FBI UC suggested that
14 they discontinue talking, BG returned and stated that he still wanted to have sex with Ellie and
15 wanted to take her virginity.

16 31. On December 3, 2019, BG stated that he was very worried that Ellie might be a
17 law enforcement officer. While portraying Ellie, the FBI UC replied "if you are worried, we
18 don't have to." The FBI UC continued by stating "I could just meet friends another time so I'm
19 not too worried anymore. I do want to meet you but it's ok." BG replied "Well, I do want to
20 meet you too. And I do want to be your First.....I want to be the one to pop that sweet cherry of
21 yours.".... "would you be comfortable with having [Ellie's step-father] take a few pics of your
22 pussy and ass for me maybe?".... "have him give you his phone, and you take the pics for me."
23 BG also told Ellie "I plan on taking some pics of your pussy with my phone. And taking a few as
24 my big cock goes inside of you too."

1 32. While continuing to exchange messages with Ellie, BG also continued planning
2 with "Ellie's step-father." BG and the FBI UC portraying Ellie's step-father discussed the need
3 for a condom, the benefits of bringing alcohol in order to placate Ellie's physical hyperactivity,
4 and other details to include the length, duration, and physical stamina of BG's sexual prowess.
5 BG stated that he wanted to hear Ellie scream in pain during the sex act. BG, the FBI UC
6 portraying Ellie's step-father, and the FBI UC portraying Ellie, then agreed to meet on
7 December 6, 2019, for the purpose of BG having sex with Ellie. During the planning leading up
8 to December 6, BG confirmed multiple times that he knew Ellie was 11 years old. After the date
9 was set, BG also continued to exchange messages with the FBI UC while portraying Ellie about
10 his sexual plans for their eventual meeting.

11 33. On December 6, 2019, BG travelled to a pre-determined location in order to have
12 sex with Ellie. The location was an RV park on the North East corner of the intersection of
13 Nellis and Flamingo road in Las Vegas, NV. BG was observed travelling via bus to the
14 determined location. When BG arrived, investigators visually confirmed that he matched the
15 known photographs of Barry Gabelman.

16 34. The FBI UC received a text from BG reading "Okay. I'm at the entrance," and
17 then confirmed with surveillance that Gabelman had just physically arrived at the RV lot via bus
18 and had been observed holding and texting with his cell phone. The FBI UC then texted BG,
19 directing him to a different location that was directly adjacent to the RV lot where BG believed
20 Ellie was. BG replied, confirming he could see the updated location. As BG sent this text,
21 surveillance observed Gabelman physically holding and texting on his cell phone. Gabelman
22 then walked in the direction that the FBI UC guided him. BG then sent a message to the FBI UC
23 stating he was going to try to take a shorter route to the updated location. As Gabelman sent this
24 text message, surveillance observed BG holding and texting his cell phone as he walked toward a

1 gated entrance to the RV lot identified by the FBI UC as the updated meeting location.
2 Gabelman then attempted to enter through the gated entrance but was unable to do so. BG then
3 texted the FBI UC stating he could not get through the gated entrance and would have to walk
4 around the exterior of the RV lot to an ungated public entrance. Agents then observed Gabelman
5 physically walk around the RV lot and enter the RV lot through the ungated public entrance.
6 Agents then observed Gabelman walk directly toward the identified location where BG was
7 supposed to meet and have sex with Ellie. At this point, based on the fact that Gabelman was
8 seen physically holding a cell phone and using it to send text messages contemporaneous with
9 the text messages exchanged between BG and the FBI UC, Gabelman was observed physically
10 following the walking directions the FBI UC provided to BG, and Gabelman's physical
11 movements were consistent with BG's text messages to the FBI UC updating the FBI UC as to
12 his efforts to get to the updated meeting location, your affiant formed the opinion that Gabelman
13 was BG.

14 35. Gabelman opened the door of the RV the FBI UC identified and entered
15 momentarily before being approached by FBI agents in uniform who identified themselves as
16 FBI agents. Upon a search of Gabelman's person, officers found a condom in his pocket.

17 36. Your affiant conducted a recorded interview of Gabelman. Although Gabelman
18 was not under arrest, out of an abundance of caution, your affiant advised Gabelman of his
19 *Miranda* rights from an FBI advice of rights form. Gabelman signed his advice of rights and
20 agreed to speak with investigators.

21 37. The following is a summary of Gabelman's interview and should not be
22 considered to be verbatim. Gabelman initially told FBI Agents that he was present to purchase
23 the RV from an unknown person named "Cam". As the interview continued, Gabelman
24 confirmed his involvement in all of the text messages with the FBI UC, confirmed he discussed

1 sex with an 11-year-old female child he believed to be named Ellie, and confirmed that he sent
2 pictures of his penis to Ellie. Gabelman claimed that he was only present to meet with Ellie's
3 step-father in order to learn his true identity so that he could report him to law enforcement and
4 save Ellie. When asked about the condom in his pocket, Gabelman claimed it was merely
5 incidental and that he generally carries a condom because of constant sexual opportunities with
6 adult women. During this interview, FBI agents continued to represent to Gabelman that Ellie
7 was a real child.

8 38. During the course of the interview, agents obtained Gabelman's phone. After the
9 interview, agents retained the phone pending a search warrant. On December 12, 2019, Judge
10 Brenda J. Weksler approved a search warrant on Gabelman's cell phone under Case No. 2:19-
11 mj-944-BNW. On December 20, 2019, the FBI initiated both a forensic review and physical
12 review of Gabelman's cell phone. During the reviews, your affiant observed and recovered the
13 SKOUT chats and photographs sent between Gabelman and the FBI UC acting as Cam, as well
14 as the WhatsApp chats and photographs between Gabelman and the FBI UC acting as both
15 Cam and Ellie.

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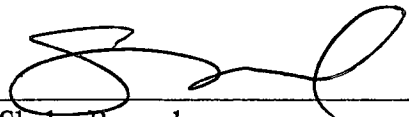
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CONCLUSION

39. Based on my training, experience and the totality of the facts related, I submit that there is probable cause to believe that BARRY ALLEN GABELMAN, defendant herein, has committed coercion and enticement in violation of 18 U.S.C. § § 2422(b), and transfer of obscene material to a minor in violation of 18 U.S.C. § § 1470.


Skyler Penrod
Special Agent
Las Vegas Division - FBI

Subscribed and sworn to before me this 15th day of January 2020.


United States Magistrate Judge